

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ARNOLD ANDERSON,

Plaintiff,

v.

JONATHAN SPOLJARIK, *et al.*,

Defendants.

Case No. 1:18-cv-380

JUDGE DOUGLAS R. COLE

Magistrate Judge Bowman

ORDER

This cause comes before the Court on the Magistrate Judge's March 6, 2020, Report and Recommendation ("R&R") (Doc. 74). The Magistrate recommends the following:

1. The Court should **GRANT in part** and **DENY in part** Defendants' Motion for Summary Judgment (Doc. 48):
 - a. The Court should **DENY** Defendants' Motion for Summary Judgment on Plaintiffs' Eighth Amendment claims against Defendants Hatfield and Spoljaric and Plaintiffs' First Amendment claim against Spoljaric because of the significant issues of material fact;
 - b. The Court should **DENY** Defendants' Motion for Summary Judgment on Plaintiffs' request for injunctive and declaratory relief, but without prejudice to renew once counsel have been heard on the issue of mootness;
 - c. The Court should **GRANT** Defendants' Motion for Summary Judgment in all other respects;
2. The Court should **DENY** Plaintiff's Motion to Strike (Doc. 61) and Motion for Summary Judgment (Doc. 69); and
3. The Court should **DENY** Plaintiff's Motion to Compel (Doc. 54).

The R&R advised both parties that a failure to object within the 14 days specified by the R&R may result in forfeiture of rights on appeal, which includes the right to District Court review. (*See* Doc. 74, #890). *See also Thomas v. Arn*, 474 U.S. 140, 149–53 (1985) (“There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *Berkshire v. Beauvais*, 928 F.3d 520, 530–31 (6th Cir. 2019) (noting “fail[ure] to file an objection to the magistrate judge’s R&R ... is forfeiture, not waiver”) (emphasis original); 28 U.S.C. § 636(b)(1)(C). The time for filing objections has passed and none have been filed.

Therefore, the Court **ADOPTS** the Report and Recommendations, and **DENIES** the Defendants’ Motion for Summary Judgment (Doc. 48) as to (1) the Eighth Amendment claims against Defendants Hatfield and Spoljaric, and (2) the First Amendment claim against Spoljaric; **DENIES** Defendants’ Motion for Summary Judgment (Doc. 48) on the claims for declaratory or injunctive relief, but without prejudice to the Defendants’ ability to raise those arguments later; **GRANTS** Defendants’ Motion for Summary Judgment (Doc. 48) in all other respects; **DENIES** Plaintiff’s Motion to Strike (Doc. 61); **DENIES** Plaintiff’s Motion for Summary Judgment (Doc. 69); and **DENIES** Plaintiff’s Motion to Compel (Doc. 54), but without prejudice to the Plaintiff’s ability to re-raise the arguments therein at a later time.

SO ORDERED.

April 2, 2020

DATE



DOUGLAS R. COLE
UNITED STATES DISTRICT JUDGE